

Hon. Loretta A. Preska  
March 17 2025

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March 17, 2025

**VIA ECF**

Hon. Loretta A. Preska  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Miller v. Hammer, et. al.*  
Docket No. 1:23-cv-03462-LAP

Dear Judge Preska:

This firm represents Defendant Dr. Lester Silver (“Defendant”) in the above-referenced matter. Defendant respectfully requests a brief four (4) day extension of Defendant’s expert rebuttal deadline, from March 17, 2025 to March 21, 2025. Plaintiff’s counsel has consented to this request.

This short extension is necessary to allow Defendant’s expert time to finalize his rebuttal expert report in response to Plaintiff’s expert Dr. Adam Carinci’s report, in both this matter and *Ortiz v Dinello et al.*, also before this Court (1:23-cv-03547) and also due on the same date. Defendant’s same expert was retained by this firm in several other MWAP-related cases, including, among others, *Herman v Dinello et al* (N.D.N.Y., Index No. 23-cv-1002) and *Daniels v. Mandalaywala* (N.D.N.Y., Index No. 23-cv-00983), all of which had deadlines which within 10 days of each other.

Based on these deadlines, and despite Defendant’s expert’s diligent efforts, Defendant’s expert needs only a very brief additional four days to finalize his rebuttal report in this case. “A court-ordered discovery schedule may be modified with the court’s consent, for good cause shown.” *See* Fed. R. Civ. P. 16(b)(4); *Rubik's Brand Limited v. Flambeau, Inc.*, 329 F.R.D. 55, 58

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(S.D.N.Y. 2019). Notably, “good cause” is not defined in the Federal Rules, however, good cause has been found where the party seeking the extension has demonstrated that the necessity for the extension of the “submission of its desired expert report was not caused by the party’s own lack of diligence.” *Ritchie Risk-Linked Strategies Trading (Ireland), Ltd. v. Coventry First LLC*, 282 F.R.D. 76, 79 (S.D.N.Y. 2012) (“The Rule 16(b)(4) good cause inquiry is primarily focused upon the diligence of the movant in attempting to comply with the existing scheduling order and the reasons advanced as justifying that order’s amendment”).

Because Defendant’s expert has diligently proceeded in providing multiple expert reports within a short window of time, including two before this Court on the same date, and because Defendant’s expert seeks only a four-day extension, which Plaintiff has kindly consented to, the parties do not anticipate that this very brief extension will affect any of the remaining deadlines. Defendant, therefore, respectfully requests an extension of four (4) days to exchange their rebuttal report in this matter.

Thank you for your time and attention to this matter.

Respectfully submitted,



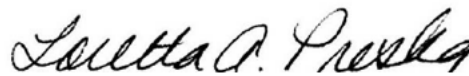
Oriana L. Kiley, Esq.

cc: All counsel of record via CM/ECF

Defendant's request for an extension is GRANTED. Defendant shall file its rebuttal report no later than March 21, 2025. The Clerk of the Court shall docket this order in the above captioned action and in 23 cv 3547. The Clerk of the Court is respectfully directed to close docket number 92 in the above captioned action.

**SO ORDERED.**

Dated: March 17, 2025



LORETTA A. PRESKA, U.S.D.J.